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Federal Communications Commission  
Office of Secretary

William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, NW - Room 222  
Washington, DC 20554

Re: Ex Parte Notice  
CC Docket No. 96-262

Dear Mr. Caton:

Yesterday, the United States Telephone Association (USTA) learned that the National Telecommunications and Information Administration (NTIA) had filed a letter in this proceeding on April 24, addressed to Chairman Hundt. Although the NTIA states that it "wishes to contribute to the dialogue" on access reform, interested parties have no meaningful opportunity to respond or participate in such a dialogue at this late stage of the proceeding. Fortunately, USTA's comments, replies, and ex partes addressed the primary issues contained in the NTIA letter. Even so, I did not want to let the NTIA letter pass without briefly commenting upon it.

While many of the policy goals articulated by the NTIA have merit, several of the means advocated by the NTIA of achieving its goals are contrary to the record evidence in this case, and would work to the detriment not only of the local exchange carriers regulated under price caps but, most importantly, to the detriment of their basic exchange customers -- particularly those in rural and high cost areas. The NTIA approach of a "substantial reduction" in access charges before the FCC has had an opportunity to transition the implicit Universal Service subsidies now in access charges to explicit support mechanisms is contrary to the intent of the 1996 Telecommunications Act.<sup>1</sup> Such a step would put pressure on basic telephone rates in many areas of this country. NTIA's suggestion for a "substantial reduction" in access charges is based on a cost study submitted by MCI, which USTA and many economists throughout the country have found to be inaccurate and unreliable. Indeed, members of the FCC and of the Universal Service Joint Board have also expressed concern about this same MCI model in the context of the Universal Service proceeding.

As USTA demonstrated in its initial comments, one of the primary ways that the current implicit subsidy mechanisms function is through the separations process. While the NTIA

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<sup>1</sup>Access charges have been reduced every year through the operation of the price cap mechanism, yet IXC's have not passed these savings on to customers. The current price cap formula will continue to result in real decreases in access charges.

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recognizes in footnote 3 of the letter that separations reform "is thus an important part of a rational pricing scheme for interstate access", NTIA would have the FCC "substantially" reduce access charges before the separations rules are reviewed by the appropriate Joint Board. This approach would work to the detriment of basic exchange customers, and is not in the public interest.

In addition to the implicit support for basic telephone service now contained in access charges, the 1996 Telecommunications Act directed the Joint Board to implement new Universal Service programs for schools, libraries, and rural healthcare providers. The Act requires the FCC to issue its decision on the Joint Board's recommendation for these new programs by May 8. The funding mechanism for the new programs, and the cost recovery mechanisms for telecommunications carriers (including Local Exchange Carriers) that must contribute funds to these programs, will inevitably affect access charge structures and levels. Yet the NTIA does not factor these significant new funding responsibilities into its thinking on access charges. This is a critical omission.

USTA agrees with NTIA and the many other commentators who say that the rate structure for access should change so that non-traffic sensitive costs are recovered through flat rate element(s) rather than in usage based charges. We disagree with the NTIA's views that such rate elements should then be automatically "phased out". The fact is that the costs reflected in the Carrier Common Line and Transport Interconnection charges are real, legitimately incurred costs. The LECs have a right to recover such costs. The NTIA "phase out" approach does not allow that legitimate cost recovery to take place.

Although NTIA states that the record in this case justifies an increase of the productivity factor in the price cap plan, NTIA cites no evidence to support this claim. In fact, the evidence on the record supports the opposite conclusion -- USTA has demonstrated that the productivity factor in the current plan significantly overstates the Total Factor Productivity achieved by the industry. Roy Neel, President and CEO of the association wrote an April 22 letter to the Commissioners summarizing the evidence submitted by USTA on this point. Clearly, there is no justification for an increase in the productivity factor.

An essential element of access reform for the incumbent local exchange carriers is pricing flexibility and regulatory streamlining. Without this flexibility, USTA's members will be unable to compete in the new marketplace created by the 1996 Telecommunications Act. While NTIA does recognize the need for flexibility, it is unclear what steps NTIA would advocate beyond what is contained in today's price cap plan. And the timing contemplated by NTIA -- in which the Commission would commence yet another proceeding to consider pricing flexibility -- is inadequate to the task. The FCC has been studying this issue since its review of the price cap plan that began in early 1994. It should act now to grant local exchange carriers regulatory

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flexibility consistent with an increasingly competitive environment. USTA's comments explain why flexibility is needed now, and lays out a plan to increase flexibility as competition increases. The FCC should adopt that plan.

USTA applauds NTIA's recognition that a market-based approach to access reform is in the public interest. However, NTIA and the FCC must be mindful of the consequences of a "down payment" in interstate access rates which is not supported by the current record.

Respectfully submitted,

A handwritten signature in black ink, reading "Mary McDermott". The signature is fluid and cursive, with the first name "Mary" and last name "McDermott" clearly distinguishable.

Mary McDermott  
Vice President - Legal & Regulatory Affairs

cc: Chairman Reed Hundt  
Commissioner Rachelle Chong  
Commissioner Susan Ness  
Commissioner James Quello  
Thomas Boasberg  
James Casserly  
James Coltharp  
Dan Gonzalez  
Regina Keeney  
Richard Metzger  
Kathleen Levitz  
James Schlichting  
Jane Jackson  
Pat DeGraba